

REMARKS/ARGUMENTS

The Office Action dated September 11, 2009 has been reviewed and carefully considered. Claims 1-10, 12 and 14-19 are pending. Claim 20 has been cancelled without prejudice. Reconsideration of the above-identified application in light of the amendment and remarks is respectfully requested.

Claims 1, 4, 6, 10, 12, 14-15, 17, 19 and the Abstract stand objected to because of informalities. In response the claims and abstract have been amended as suggested by the Examiner. Accordingly applicants request removal of these objections.

Claim 20 stands rejected under 35 U.S.C. 101, as being directed to non-statutory subject matter. In response claim 20 has been cancelled. Accordingly, applicants request removal of this rejection.

In the Office Action, claims 1-3, 6-7, 9-10, 12, 14-15 and 19-20 stand rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Wang (U.S. Patent 6038333) in view of Sheridan (U.S. Patent No. 5760917) and Aggarwal et al. (U.S. Patent 6886000 B1). It is respectfully submitted that independent claims 1, 10, 14 and 15 are patentable over Wang, Sheridan and Aggarwal for at least the following reasons.

Independent claim 1 recites the limitations of “*control means, operable by each candidate person, to control third party access to the stored personal data relating to the*

candidate person.” The Office Action indicates these limitations are shown in Sheridan in col. 2, lines 45-52. Applicants respectfully disagree. In col. 2, lines 45-52, Sheridan simply teaches “access rights... to a remotely stored image set.” Nothing in Sheridan teaches controlling, by each candidate person, access to the stored personal data relating to the candidate person. The image acquisition device for capturing an image of a target person is not controlled by an access right in the present invention, but the personal data is controlled.

Independent claim 1 further recites the limitations of “*A user device comprising an image acquisition device... a search engine for matching the captured image of the target person to a candidate person image data item and retrieving the personal data relating thereto, wherein the search is limited to candidate person image data items that relate to further user devices that are in the same geographical area as the user device...*” The Office Action indicates these limitations are shown in Aggarwal on col. Lines 21-24, col. 4, lines 31-34, col. 3, lines 39-54, col. 2, lines 32-38, 51-62, col. 7, lines 26-32, col. 7, lines 37 – col. 8, lines 8 and figs. 5-8. Applicants respectfully disagree. In these sections Aggarwal teaches that an on-line profile may be updated using a number of external inputs (item 106 of Fig. 1), including geographical area. A media miner 502 performs data retrieval in response to query by image content. However, the “outputs of the data miner 501 and the media miner 502 *are shopping behavior attribute sets* which are input to correlator 503 and the media miner 502 and provide a final attribute set to the static customer profiles (103 in Fig 1).” See col. 7, lines 26-32. Moreover, Aggarwal teaches that “there is a video conferencing mechanism in place between the e-commerce

site and the customer. By that, what is meant is a human computer interface which captures the customer's (conversely, the seller's) action, such as speech, facial and body expressions. This interface typically is constituted by a video (i.e. television) monitor and a telephone..." Thus, nothing in Aggarwal teaches that the search is limited to candidate person image data items **that relate to further user devices** that are in the **same geographical area as the user device**. Independent claim 10, 14, and 15 recite similar limitations.

Further, it is not seen how the above list of elements of Aggarwal provides the motivation to combine into the above claimed limitation..., without improper hindsight by "use[ing] the claimed invention itself as a blueprint for piecing together elements in the prior art to defeat the patentability of the claimed invention," see *In Re Denis Rouffet*, 47 USPQ.2d 1453, 1457-58 (Fed. Cir. 1998). The Federal Circuit in *In re Rouffet* stated that virtually all inventions are combinations of old elements. Therefore an Examiner may often find many elements of a claimed invention in the prior art. To prevent the use of hindsight based on the invention to defeat patentability of the invention, the Examiner is required to show a motivation to combine the references and further a motivation to modify the combination to justify a finding of obviousness. Applicants respectfully submit that the Examiner has not met this burden.

The mere fact that the prior art device could be modified so as to produce the claimed device, which in this case even in combination it does not (as discussed herein), is not a basis for an obviousness rejection unless the prior art suggested the desirability of

the modification. See, *In re Gordon*, 733 F.2d 900, 902 (Fed. Cir. 1984); and *In re Laskowski*, 871 F.2d 115, 117 (Fed. Cir. 1989).

The only suggestion that can be found anywhere for making the modification appears to come from the present patent application itself.

Still further, independent claim 10 recites the limitations of “...*wherein the means for accessing and the means for retrieving include a wireless communication device that is adapted to communicate with a plurality of further portable devices, the further portable devices together forming the remote database; and*

wherein the range of the wireless communication device limits the further portable devices that form the remote database to the geographical area of the portable device.”

The Office Action indicates these limitations are shown in Sheridan in col. 3, lines 42-50 and col. 9, lines 1-8. Applicants respectfully disagree. In col. 3, lines 42-50, Sheridan simply describes the term ‘communication’ e.g. as a transmission of a signal... via various means including satellite. In col. 9, lines 1-8 Sheridan simply describes a Hub station 20 having means for communicating stored image set signal to an of a plurality of terminal 40A, 40B, 40C to 40N connected the hub 20. Nothing in Sheridan and in particular either of these cited sections teaches “*wherein the means for accessing and the means for retrieving include a wireless communication device that is adapted to*

*communicate with a plurality of further portable devices, **the further portable devices together forming the remote database.***”

Having shown that Wang, Sheridan, and Aggarwal alone or in combination, fail to disclose each and every element claimed, applicant submits that the reason for the Examiner's rejection of claims 1, 10, 14, and 15 has been overcome and can no longer be sustained. Applicant respectfully requests reconsideration, withdrawal of the rejection and allowance of claims 1, 10, 14, and 15.

In the Office Action, claims 4, 5 and 8 stand rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Wang in view of Sheridan and Aggarwal and in further view of Wang² (U.S. Patent No. 6035055). Further, in the Office Action, claims 16-18 stand rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Wang in view of Sheridan and Aggarwal and in further view of Willins (U.S. Patent No. 6990587).

With regard to the dependent claims 2-9, 12 and 16-19, these claims ultimately depend from one of the independent claims, which have been shown to be allowable in view of the cited references. Accordingly, claims 2-9, 12 and 16-20 are also allowable by virtue of their dependence from an allowable base claim.

For all the foregoing reasons, it is respectfully submitted that all the present claims are patentable in view of the cited references. Entry of this amendment and a Notice of Allowance is respectfully requested.

Respectfully submitted,

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